

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

Case No. A-6071

PETITION OF ELIZABETH DUSKIN
(Hearing held June 1, 2005)

OPINION OF THE BOARD
(Effective date of Opinion, August 2, 2005)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section III C.3. The petitioner proposes the construction of a two-story addition that requires a two (2) foot variance it is within five (5) feet of the side lot line. The required setback is seven (7) feet.

The subject property is Lot 59, Block G, Chevy Chase Terrace Subdivision, located at 4805 Chevy Chase Boulevard, Chevy Chase, Maryland, 20815, in the R-60 Zone (Tax Account No. 00476011).

Decision of the Board: Requested variance **denied.**

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes the construction of a two-story addition.
2. The petitioner testified that the existing house is currently located 5 feet from its western side yard boundary and that the new construction would follow the same lines of the existing house. The petitioner testified that the lot has a specimen tree in its rear yard and that the tree is at least 100 years old. The petitioner testified that the variance is required to prevent damage to the root system of the tree.
3. The petitioner testified that the foundation of an existing one-story addition has deteriorated and that the one-story addition will be demolished and replaced with the new addition. The petitioner testified that her lot is 8000± square feet.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot has no exceptional topographical or other conditions peculiar to the property and that are not shared with the adjoining and neighboring properties. The Board further finds that the petitioner's lot is consistent in shape and size with all of neighboring lots in the immediate area. See, Exhibit No. 8 [zoning vicinity map].

The Board notes that the petitioner's lot exceeds the minimum lot size for the zone and that the existence of the specimen tree on the property does not make the lot unique.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of two (2) feet from the required seven (7) foot side lot line setback for the construction of a two-story addition is denied.

The Board adopted the following Resolution:

On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Donna L. Barron, and Wendell M. Holloway in agreement and Allison Ishihara Fultz, Chair, opposed, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 2nd day of August, 2005.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.